

before the employee enters on duty in the position to which relocated.

(b)(1) An agency may waive the case-by-case approval requirement under paragraph (a) of this section when—

(i) The employee is a member of a group of employees subject to a mobility agreement and the agency determines that relocation incentives are necessary to retain employees subject to such an agreement to ensure continuation of operations; or

(ii) A major organizational unit of the agency is relocated to a new duty station and the agency determines that relocation incentives are necessary for a group of employees to ensure the continued operation of that unit without undue disruption of an activity or function that is deemed essential to the agency's mission or without undue disruption of service to the public.

(2) The written determination under paragraph (a) of this section must specify the group of employees covered by the case-by-case waiver, the conditions under which the waiver is approved, and the period of time for which the waiver may be applied.

§ 575.209 Payment of relocation incentives.

(a) An authorized agency official must establish the criteria for determining the amount of a relocation incentive. An agency may pay a relocation incentive—

(1) As an initial lump-sum payment at the commencement of the service period required by the service agreement;

(2) In installments throughout the service period required by the service agreement;

(3) As a final lump-sum payment upon the completion of the full service period required by the service agreement; or

(4) In a combination of these payment methods.

(b)(1) Except as provided in paragraph (c) of this section, the total amount of relocation incentive payments paid to an employee in a service period may not exceed 25 percent of the annual rate of basic pay of the employee at the beginning of the service period multiplied by the number of years (including fractions of a year) in

the service period (not to exceed 4 years).

(2) For hourly rate employees who do not have a scheduled annual rate of basic pay, compute the annual rate required for paragraph (b)(1) of this section by multiplying the applicable hourly rate in effect at the beginning of the service period by 2,087 hours.

(3) For the purpose of determining the number of years in a service period under paragraph (b)(1) of this section, divide the total number of calendar days in the service period (as established under § 575.208) by 365 and round the result to two decimal places. For example, a service period covering 39 biweekly pay periods equals 546 days, and 546 days divided by 365 days equals 1.50 years.

(c)(1) An authorized agency official may request that OPM waive the limitation in paragraph (b)(1) of this section for an employee based on a critical agency need. The authorized agency official must determine that the competencies required for the position are critical to the successful accomplishment of an important agency mission, project, or initiative (e.g., programs or projects related to a national emergency or implementing a new law or critical management initiative). Under such a waiver, the total amount of relocation incentive payments paid to an employee in a service period may not exceed 50 percent of the annual rate of basic pay of the employee at the beginning of the service period multiplied by the number of years (including fractions of a year) in the service period. However, in no event may a waiver provide total relocation incentive payments exceeding 100 percent of the employee's annual rate of basic pay at the beginning of the service period.

(2) Waiver requests must include—

(i) A description of the critical agency need the proposed relocation incentive would address;

(ii) The documentation required by § 575.208;

(iii) The proposed relocation incentive payment amount and a justification for that amount;

(iv) The timing and method for making the relocation incentive payments;

(v) The period of service required; and

§ 575.210

(vi) Any other information pertinent to the case at hand.

(d) A relocation incentive is not part of an employee's rate of basic pay for any purpose.

(e) Payment of a relocation incentive is subject to the aggregate limitation on pay under 5 CFR part 530, subpart B.

§ 575.210 Service agreement requirements.

(a) Before paying a relocation incentive, an agency must require the employee to sign a written service agreement to complete a specified period of employment with the agency (or successor agency in the event of a transfer of function) at the new duty station. An authorized agency official must establish the criteria for determining the length of a service period. The service period may not exceed 4 years.

(b)(1) The service agreement must include the commencement and termination dates of the required service period. Except as provided under paragraphs (b)(2) and (b)(3) of this section, the required service period must begin upon the commencement of service at the new duty station. The service period must terminate on the last day of a pay period.

(2) If service at the new duty station does not begin on the first day of a pay period, the agency must delay the service period commencement date so that a required service period begins on the first day of the first pay period beginning on or after the commencement of service at the new duty station.

(3) An agency may delay a service agreement commencement date until after the employee completes an initial period of formal training when continued employment in the position is contingent on successful completion of the formal training. The agency must make the determination to pay a relocation incentive before the employee enters on duty in the position, as required by § 575.208(a)(3). However, the service agreement must specify that if an employee does not successfully complete the training before the service period commences, the agency is not obligated to pay any portion of the relocation incentive to the employee.

(c) The service agreement must specify the total amount of the incen-

5 CFR Ch. I (1–1–14 Edition)

tive, the method of paying the incentive, and the timing and amount of each incentive payment, as established under § 575.209.

(d) The service agreement must include the conditions under which the agency must terminate the service agreement (*i.e.*, if an employee is demoted or separated for cause, receives a rating of record of less than “Fully Successful” or equivalent, fails to maintain residency in the new geographic area for the duration of the service agreement, or otherwise fails to fulfill the terms of the service agreement) and the conditions under which the employee must repay a relocation incentive under § 575.211. An agency must define the limits of the new geographic area in the service agreement for the purpose of determining whether an employee maintains residency in that geographic area for the duration of the service agreement.

(e) The service agreement must include the conditions under which the agency may terminate the service agreement before the employee completes the agreed-upon service period. The service agreement must specify the effect of the termination under § 575.211, including the conditions under which the agency will pay an additional relocation incentive payment for partially completed service under § 575.211(e) and (f).

(f) The service agreement may include any other terms or conditions that, if violated, will result in termination of the service agreement. For example, the service agreement may specify the employee's work schedule, type of position, and the duties he or she is expected to perform. In addition, the service agreement may address the extent to which periods of time on detail, in a nonpay status, or in a paid leave status are creditable towards the completion of the service period.

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§ 575.211 Termination of a service agreement.

(a) An authorized agency official may unilaterally terminate a relocation incentive service agreement based solely